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HOUSE OF THE PEOPLE

The following Report of the Select Committee on the Bill to amend the Industries (Development and Regulation) Act, 1951, was presented to the House of the People on the 29th April, 1953:—

MEMBERS OF THE SELECT COMMITTEE

- Shri N. V. Gadgil—Chairman.
- Prof. Diwan Chand Sharma.
- Shri Balwant Sinha Mehta.
- Shri Govind Hari Deshpande.
- Shri Fulsinhji B. Dabhi.
- Shri Upendranath Barman.
- Dr. Jayantilal Narbheram Parekh.
- Shri Abdus Sattar.
- Shri S. C. Deb.
- Shri Bhupendra Nath Misra.
- Shri Bhagwat Jha 'Azad'.
- Shri Radhelal Vyas.
- Shri Satyendra Narayan Sinha.
- Shri K. G. Deshmukh.
- Shrimati Tarkeshwari Sinha.
- Shri Raghavendarao Srinivasrao Diwan.
- Shri Gajendra Prasad Sinha.
- Shri G. R. Damodaran.
- Shri C. R. Basappa.
- Shri Ranbir Singh Chaudhuri.

Shri Tribhuan Narayan Singh.
 Shri Shri Chand Singhal.
 Shri Baij Nath Kureel.
 Shri Chaturbhuj V. Jasani.
 Shri Vishwambhar Dayal Tripathi.
 Shri Bahadur Singh.
 Shri Durga Charan Banerjee.
 Shri Mangalagiri Nanadas.
 Shri Kamal Kumar Basu.
 Shri G. D. Somani.
 Dr. Indubhai B. Amin.
 Shri Kandala Subrahmanyam.
 Shri Choithram P. Gidwani.
 Shri Tridib Kumar Chaudhuri.
 Shri B. Rajagopala Rao.
 Shrimati Anasuyabai Kale.
 Shri Paidi Lakshmayya.
 Shri T. T. Krishnamachari.

REPORT OF THE SELECT COMMITTEE

The Select Committee to which the *Bill to amend the Industries (Development and Regulation) Act, 1951, was referred, have considered the Bill and the evidence tendered by certain representatives of industries and now submit this their Report, with the Bill as amended by the Committee annexed thereto.

1. Upon the changes proposed in the Bill which are not formal or consequential the Select Committee note as follows:—

Clause 4 (new).—The omission of clause (b) of sub-section (4) of section 5 is now necessary because the main purpose of the amendments proposed in the Bill is essentially to facilitate quick action by Government whenever necessary. The omission of section 17 and the insertion of section 18A under which the management of an industrial undertaking may be taken over whether or not any directions have been issued to the undertaking under section 16 are all intended to serve the same end.

Clause 7.—The insertion of the words 'not being the Central Government' is intended to make it clear that the provisions of this section shall not apply to an undertaking owned by the Central Government. The words 'by the inclusion of such new articles' are being omitted because the manner in which a licence or permission may be amended may be prescribed by rules.

*The Bill was published in Part II, Section 2 of the *Gazette of India Extraordinary*, dated the 10th April, 1953.

Clause 8.—This clause has been redrafted because the existing clause does not make it clear that the provisions of section 12 shall apply to licences which are amended under section 11A.

Clause 9.—The amendments made are clarificatory only.

Clause 13.—(a) [Proposed section 18A].—The Committee feel that in certain cases it may be necessary that an order under which the management of an undertaking is taken over should continue after the expiry of the period of five years. A proviso has accordingly been added to sub-section (2) of section 18A which empowers the Government to extend such period beyond 5 years but every order of extension is to be laid before both Houses of Parliament.

(b) [Sub-section (4) of proposed section 18B].—The amendment makes it clear that any directions issued by the Central Government shall override the memorandum and articles of association of the industrial undertaking.

(c) [Sub-section (2)(d) and sub-section (8) of the proposed section 18G].—The amendments made are intended to ensure that a reasonable price will be fixed for articles in respect of which an order is made under clause (d) of sub-section (2) of section 18G.

Clause 15.—The changes made are partly clarificatory and partly consequential.

Clause 18 (new).—The amendment made is consequential only.

Clause 19.—In Item 10 of the First Schedule textiles made wholly or partly from staple fibre have been added. Similarly after Item 89 relating to soap, a new item, namely, 'other toilet requisites' has been added. The rest of the amendments are clarificatory only.

2. The Select Committee recommend that the Bill be passed as now amended..

N. V. GADGIL,

Chairman of the Select Committee.

NEW DELHI;

The 29th April, 1958.

MINUTES OF DISSENT

1

While I am not opposed to the principle of the Bill, I however strongly feel that longer opportunity should have been given to the industrial organisations concerned to represent genuine difficulties and consequent adverse repercussions which some of the drastic amendments proposed may have on the industrial development of the country.

2. In my opinion the provisions regarding the definitions of the expression 'new article' vide clause 2—sub-clause (ii) and also the

provisions under clause 8 which seeks to amend the existing section 13 regarding 'any substantial expansion of an industrial undertaking' require further clarification so that normal working of the industries may not be interfered with.

3. I would specially like to draw attention to the introduction of a new chapter III-A, which comprises sections 18A to 18F and includes provisions concerning 'Direct management or control of industrial undertakings by Central Government in certain cases'. These Sections give extraordinary powers to the Government. Section 18A includes a provision under which Government can take over the management of an industrial undertaking in respect of which an investigation has been made, without first issuing directions to it and waiting to see whether or not they are obeyed. I feel these provisions are unnecessarily drastic. I suggest therefore that some reasonable safeguards should be inserted in this chapter to ensure that at least the industrial unit concerned gets some opportunity to explain the charges that may have been found out in the course of investigation. Moreover the innocent shareholders should not be deprived of some representation in the new Board of Management which may be set up to take up the management.

4. The new sections relating to penalties are more elaborate and unduly stringent and require further review so as to avoid unnecessary harassment to the innocent.

NEW DELHI,

G. D. SOMANI.

The 29th April, 1953.

II

The Government of the day in our country is committed to the working out of a Five Year Plan under which certain sphere and category has been assigned to the State for development which is generally known as public and the rest of the industrial sphere is left for private enterprise to exploit and work out. However the Government realises that in the present context the laiss'ez-faire economics has no place and more specially when our economy is wedded to a plan. The Five Year Plan therefore intends to control the industries in private sector by regulation. As a result whereof the Industries (Development and Regulation) Act 1951 was enacted the principal object whereof is to enable the Government to implement its policy for the development and regulation of the industries in private sector with the object of fitting them in the overall industrial policy as enunciated in the Plan and the Government's policy resolution of

April 1948. The position has been accepted by the private industrialists, in their numerous pronouncements which some of them also maintained when they represented their case before us.

2. In spite of our strong criticism of the Five Year Plan and wide divergence of opinion on many aspects of the Plan we are strongly of opinion that in the context of our complex social problem and also of the state of our industrial development it is absolutely necessary that the industries in the private sector must be controlled and regulated in a manner wherein the social and national interest of the industry should be paramount to the selfish profit-making motive of the industrialist which we regret to say often find its expression in a ruthless and naked form. We participated in the deliberation of the Select Committee to see that provisions are made to translate into action the limited objective of Bill as enunciated by the Government whose proverbial weakness for the big business has made common man sceptical about their intentions.

3. It is true that enough provisions are found in the original Act which are being sought to be improved upon for control and regulation of industry in the interest of the nation. Now it is the duty of the Government to set an efficient administrative machinery to work the law in a manner which inspires the confidence and support of all concerned and more specially the common man. The representatives of the industry also accepted the necessity and the urgency of such legislation in the Statute Book in spite of all the criticism they made which on ultimate analysis was found to veer round the administering of the Act. It is generally felt that bureaucracy however experienced they may be cannot possibly rise equal to the task that they may be called upon to perform. If the Government intends to work this Act properly it must have administrative unit less rigid and more receptive to the demands of the common people and the industry in the background of the national interest. We would therefore suggest that it is absolutely necessary and reasonable to associate well-known economists and other experts of unimpeachable character who have no interest in such or similar industries with the administrative machinery meant for working out the provision of this Act. We are also of opinion that interest of labour and the consumers should be represented. It must not be left to the hard boiled bureaucrats to man the administrative machinery. We feel that if our above suggestions are accepted much of the criticism will die down and it will also inspire the confidence of the common man and prove the bona fides of the Government beyond doubts.

4. We further suggest that all notifications made under this Act and more specially those relating to the handing back of the taken

over industry and the exemption from registration under this **Act** should be laid on the Table of the House.

5. We are glad to record that there were some improvements to the provisions of the Bill in the Select Committee though we would have wished further improvement.

6. Subject to the above suggestion we accept the principles of the Bill and the provisions thereunder except on those wherein we differed and which we state hereunder.

7. **Section 18A(2).**—In the 'Explanation' it is mentioned that the Government by taking over an industry may hand it over to some managing agency firm to manage it on such terms and conditions as they think fit. It is true in laying down conditions the Government may try to put a check towards further mal-practices of the managing agent. However we are constrained to say that we cannot accept the explanation of the Government. The managing agency system has been criticised for long and it has usually been accepted that it has worked as a bane towards our industrial advance. Even the recent Company Law Enquiry Committee which was predominated by the representatives of the big business had to express in no unspeakable terms its criticism of the system though it recommended its continuation for a limited period with a drastic curtailment of its power. We feel that when such systems are not found in highly industrialised country our Government should not actively support such systems and favour its continuation. We are strongly of opinion that there cannot be any occasion when any industry however big, important and complicated cannot be run by any body or group of persons other than the managing agency. It is quite well-known and accepted that employees of the different classes and categories run an institution by themselves and often with the help of experts and technical men. We therefore suggest that the Government as an authority in charge of any industry should ever appoint a managing agent to run it. We, therefore, want the deletion of the 'explanation' to the sub-section.

8. **Section 18F.**—Here on cancelling an order under section **18A** (taking over) it is provided that the industry should be handed to those under whose control and possession it was at the time of taking over. It means that if a company or an industrial unit is taken over from a managing agent who was running it then on the ground of mismanagement and negligence it has to be given over to them as provided in this clause read with definition 'owner' in section 3 of the parent Act (Act LXV of 1951) though such managing agents are under the eye of the Law mere trustee on behalf of the shareholders who are the actual owners. We have known of instances

where the managing agent having control over the relatively small proportion of shareholders still maintain their greedy grip of the company much to the detriment of the interest of the shareholders. Therefore we suggest that in the case of all firms and the companies the Government before cancelling the order of control and possession and actually handing it over to its past manager should call a meeting of the shareholders to ascertain their point of view. This is so necessary because under the existing provisions of law there is very little power to take action against the director or the managing agent for whose fault and mismanagement the unit had to be taken over. Therefore we feel that the Government has duty to the shareholders who are really the owner of the unit.

9. In conclusion we hope the Bill would have an easy passage and the Government should immediately set up such a machinery efficient and inspiring and equal to the task who would be capable of administering the law in its true form and spirit with a view to keep the private sector of our industry on the right track and not acting in a way inimical to the interest of this society and the nation which we regret to say many of them are prone to in their narrow selfish interest.

NEW DELHI;

K. K. BASU.

The 29th April, 1953.

TRIDIB KUMAR CHAUDHURI.

M. NANADAS.

III

I fully agree with the above minute of dissent by Shri K. K. Basu and others regarding Sections 18A & 18F.

NEW DELHI,

DURGA CHARAN BANERJEE.

The 29th April, 1953.

IV

Amendment of section 3, Act LXV of 1951.

Clause (dd).—The expression "new article" should not include those articles which the industry has to manufacture in the normal course of business. For instance in a chemical and pharmaceutical concern hundreds of preparations are manufactured. With the advancement of science and progress in scientific researches the compositions of some preparations have to be revised and new preparations have to be invented and put in the market. The change in

the composition of any preparation and/or the manufacture of a new preparation falling under the same line of manufacture i.e. "pharmaceutical and drugs" should not be considered as a "new article" so long as the process for its manufacture has been established in that factory without the help of a foreign patent. For further clarification I give an instance. If cement is proposed to be manufactured in a pharmaceutical concern it should certainly be called a new article. But the manufacture of a drug in a drugs manufacturing concern should not be called a "new article". Similarly mere change in the trade mark name of the existing preparation or the manufacture of a new preparation under a new trade name should not be construed as a "new article". The expression "new article" should be made clear in the light of the above remarks, otherwise it will create a lot of difficulties for the pharmaceutical and drug industry and such other industries and will retard their development.

2. Amendment of section 10, Act LXV of 1951.

Sub-section (I).—The time limit of six months as fixed in the principal Act should be retained because it will ensure efficiency of the Government Department concerned. If it is the experience of the Government that the period of six months is not enough, steps should be taken to improve efficiency.

3. Insertion of new section 11A in Act LXV of 1951.

In case of industrial undertakings, which have already been registered and licensed permission for the manufacture of a new article is unnecessary provided that such an article falls within the category or class of articles normally manufactured at the undertaking.

4. Substitution of new section for section 13 in Act LXV of 1951.

The reasons for refusing grant of a licence should be communicated to the owner of the industrial undertaking in writing. The explanation for "substantial expansion" is too general and vague. It should be made more precise.

5. CHAPTER IIIA.—Direct management or control of Industrial Undertakings by Central Government in certain cases.

Section 18A.—Before taking over management of the whole or any part of the undertaking or before making investigations the Government should have definite proof as to the fact that the undertaking has failed to comply with the directions issued by the Central Government or is managed in a manner detrimental to the scheduled industry or to public interest. During the period of management or control of the whole or part of any undertaking Government should assume the full financial liability. The Government should also make

provision in respect of those undertakings, which could not be run properly due to the reasons beyond the control of the management or the owner of an undertaking.

6. Substitution of new section for section 23 in Act LXV of 1951.

The decision of the Government with regard to the expressions "substantial expansion" and "new article" should not be final. Provision should be made for appealing before a board of arbitration against the decision of the Government.

7. Substitution of new sections for sections 25, 26, 27, 28 and 29 in Act LXV of 1951.

Section 29-C.—This section gives a free hand to a Government officer and makes him immune from legal action arising out of his wrongful actions. This may not be fair to the undertaking and therefore the law should apply to Government or any officer appointed by it.

I. B. AMIN.

NEW DELHI,

The 29th April, 1953.

[As AMENDED BY THE SELECT COMMITTEE]

(*Words underlined or side-lined indicate the amendments suggested by the Committee; asterisks indicate omissions*)

BILL NO. 88A OF 1953

A Bill to amend the Industries (Development and Regulation) Act, 1951.

Bill enacted by Parliament as follows:—

1. Short title and commencement.—(1) This Act may be called the Industries (Development and Regulation) Amendment Act, 1953.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Amendment of section 3, Act LXV of 1951.—In section 3 of the Industries (Development and Regulation) Act, 1951 (hereinafter referred to as the principal Act),—

(i) after clause (b), the following clause shall be inserted, namely:—

"(bb) 'existing industrial undertaking' means—

(a) in the case of an industrial undertaking pertaining to any of the industries specified in the First Schedule as originally enacted, an industrial undertaking which was in existence on the commencement of this Act or for the establishment of which effective steps had been taken before such commencement, and

(b) in the case of an industrial undertaking pertaining to any of the industries added to the First Schedule by an amendment thereof, an industrial undertaking which is in existence on the coming into force of such amendment or for the establishment of which effective steps had been taken before the coming into force of such amendment;”;

(ii) after clause (d), the following clause shall be inserted, namely:—

“(dd) ‘new article’, in relation to an industrial undertaking which is registered or in respect of which a licence or permission has been issued under this Act, means—

(a) any article which falls under an item in the First Schedule other than the Item under which articles ordinarily manufactured or produced in the industrial undertaking at the date of registration or issue of the licence or permission, as the case may be, fall;

(b) any article which bears a mark as defined in the Trade Marks Act, 1940 (V of 1940), or which is the subject of a patent, if at the date of registration or issue of the licence or permission, as the case may be, the industrial undertaking was not manufacturing or producing such article bearing that mark or which is the subject of that patent.”.

3. Omission of section 4, Act LXV of 1951.—Section 4 of the principal Act shall be omitted.

4. Amendment of section 5, Act LXV of 1951.—In sub-section (4) of section 5 of the principal Act, clause (b) shall be omitted.

5. Amendment of section 10, Act LXV of 1951.—In section 10 of the principal Act,—

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) The owner of every existing industrial undertaking, not being the Central Government, shall, within such period as the Central Government may, by notification in the Official Gazette, fix in this behalf with respect to industrial undertakings generally or with respect to any class of them, register the undertaking in the prescribed manner.”;

(b) after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) Where an industrial undertaking is registered under this section, there shall be issued to the owner of the undertaking or the Central Government, as the case may be, a certificate of registration containing such particulars as may be prescribed.”.

6. Insertion of new section 10A in Act LXV of 1951.—After section 10 of the principal Act, the following section shall be inserted, namely:—

“10A. *Revocation of registration in certain cases.*—If the Central Government is satisfied that the registration of any industrial undertaking has been obtained by misrepresentation as to an essential fact

or that any industrial undertaking has ceased to be registrable under this Act by reason of any exemption granted under this Act becoming applicable thereto or that for any other reason the registration has become useless or ineffective and therefore requires to be revoked, the Central Government may revoke the registration.”.

7. Insertion of new section 11A in Act LXV of 1951—After section 11 of the principal Act, the following section shall be inserted, namely:—

“11A. Licence for producing or manufacturing new articles.—The owner of an industrial undertaking not being the Central Government which is registered under section 10 or in respect of which a licence or permission has been issued under section 11 shall not produce or manufacture any new article unless—

(a) in the case of an industrial undertaking registered under section 10, he has obtained a licence for producing or manufacturing such new article; and

(b) in the case of an industrial undertaking in respect of which a licence or permission has been issued under section 11, he has had the existing licence or permission amended in the prescribed manner.****

8. Amendment of section 12, Act LXV of 1951.—In section 12 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) The provisions of this section shall apply in relation to a licence issued under section 11A or where a licence has been amended under that section, to the amendment thereof, as they apply in relation to a licence issued under section 11.”

9. Substitution of new section for section 13 in Act LXV of 1951.—For section 13 of the principal Act, the following section shall be substituted, namely:—

“13. Further provision for licensing of industrial undertakings in special cases.—(1) **** No owner of an industrial undertaking, other than the Central Government, shall—

(a) in the case of an industrial undertaking required to be registered under section 10, but which has not been registered within the time fixed for the purpose under that section, carry on the business of that undertaking after the expiry of such period, or

(b) in the case of an industrial undertaking the registration in respect of which has been revoked under section 10A on the ground that it had been obtained by misrepresentation as to an essential fact, carry on the business of the undertaking after the revocation, or

(c) in the case of an industrial undertaking to which the provisions of this Act did not originally apply but became applicable after the commencement of this Act for any reason, carry on the business of the undertaking after the expiry of three months from the date on which the provisions of this Act became so applicable, or

(d) effect any substantial expansion of an industrial undertaking which has been registered, or

(e) change the location of the whole or any part of an industrial undertaking which has been registered, except under, and in accordance with, a licence issued in that behalf by the Central Government, and, in the case of a State Government, except under and in accordance with the previous permission of the Central Government.

(2) The provisions of sub-section (2) of section 11 and of section 12 shall apply, so far as may be, in relation to the issue of licences or permissions to any industrial undertaking referred to in this section as they apply in relation to the issue of licences or permissions to a new industrial undertaking.

Explanation.—For the purposes of this section, 'substantial expansion' means the expansion of an existing industrial undertaking which substantially increases the productive capacity of the undertaking, or which is of such a nature as to amount virtually to a new industrial undertaking, but does not include any such expansion as is normal to the undertaking having regard to its nature and the circumstances relating to such expansion.'.

10. Amendment of section 14, Act LXV of 1951.—In section 14 of the principal Act, for the words and figures 'section 11 or section 13' the words, figures and letter 'section 11, section 11A or section 13' shall be substituted.

11. Amendment of section 15, Act LXV of 1951.—In section 15 of the principal Act, for clause (b), the following clause shall be substituted, namely:—

"(b) any industrial undertaking is being managed in a manner highly detrimental to the scheduled industry concerned or to public interest;".

12. Omission of section 17, Act LXV of 1951.—Section 17 of the principal Act shall be omitted.

13. Insertion of Chapters IIIA and IIIB in Act LXV of 1951.—After Chapter III of the principal Act, the following Chapters shall be inserted, namely:—

"CHAPTER IIIA

DIRECT MANAGEMENT OR CONTROL OF INDUSTRIAL UNDERTAKINGS BY CENTRAL GOVERNMENT IN CERTAIN CASES

18A. Power of Central Government to assume management or control of an industrial undertaking in certain cases.—(1) If the Central Government is of opinion that—

(a) an industrial undertaking to which directions have been issued in pursuance of section 16 has failed to comply with such directions, or

(b) an industrial undertaking in respect of which an investigation has been made under section 15 (whether or not any directions have been issued to the undertaking in pursuance of section 16), is being managed in a manner highly detrimental to the scheduled industry concerned or to public interest,

the Central Government may, by notified order, authorise any person or body of persons to take over the management of the whole or any part of

the undertaking or to exercise in respect of the whole or any part of the undertaking such functions of control as may be specified in the order.

(2) Any notified order issued under sub-section (1) shall have effect for such period not exceeding five years as may be specified in the order:

Provided that the Central Government, if it is of opinion that it is expedient in public interest so to do, may direct that any such notified order shall continue to have effect after the expiry of the period of five years aforesaid for such further period as may be specified in the direction and where any such direction is issued, a copy thereto shall be laid, as soon as may be, before both Houses of Parliament.

Explanation.—The power to authorise a body of persons under this section to take over the management of an industrial undertaking which is a company includes also a power to appoint any individual firm or company to be the managing agent of the industrial undertaking on such terms and conditions as the Central Government may think fit.

18B. Effect of notified order under section 18A.—(1) On the issue of a notified order under section 18A authorising the taking over of the management of an industrial undertaking,—

(a) all persons in charge of the management, including persons holding office as managers or directors of the industrial undertaking immediately before the issue of the notified order, shall be deemed to have vacated their offices as such;

(b) any contract of management between the industrial undertaking and any managing agent or any director thereof holding office as such immediately before the issue of the notified order shall be deemed to have been terminated;

(c) the managing agent, if any, appointed under section 18A shall be deemed to have been duly appointed as the managing agent in pursuance of the Indian Companies Act, 1913 (VII of 1913) and the memorandum and articles of association of the industrial undertaking and the provisions of the said Act and of the memorandum and articles shall, subject to the other provisions contained in this Act, apply accordingly, but no such managing agent shall be removed from office except with the previous consent of the Central Government;

(d) the person or body of persons authorised under section 18A to take over the management shall take all such steps as may be necessary to take into his or their custody or control all the property, effects and actionable claims to which the industrial undertaking is or appears to be entitled, and all the property and effects of the industrial undertaking shall be deemed to be in the custody of the person or, as the case may be, the body of persons as from the date of the notified order; and

(e) the persons, if any, authorised under section 18A to take over the management of an industrial undertaking which is a company shall be for all purposes the directors of the industrial undertaking duly constituted under the Indian Companies Act, 1913 (VII of 1913) and shall alone be entitled to exercise all the powers of the directors of the industrial undertaking, whether such

powers are derived from the said Act or from the memorandum or articles of association of the industrial undertaking or from any other source.

(2) Subject to the other provisions contained in this Act and to the control of the Central Government, the person or body of persons authorised to take over the management of an industrial undertaking, shall take such steps as may be necessary for the purpose of efficiently managing the business of the industrial undertaking and shall exercise such other powers and have such other duties as may be prescribed.

(3) Where any person or body of persons has been authorised to exercise any functions of control in relation to an industrial undertaking, the undertaking shall be carried on pursuant to any directions given by the authorised person in accordance with the provisions of the notified order, and any person having any functions of management in relation to the undertaking or part thereof shall comply with all such directions.

(4) The person or body of persons authorised under section 18 shall, notwithstanding anything contained in the memorandum or articles of association of the Industrial undertaking, exercise his or their functions in accordance with such directions as may be given by the Central Government so, however, that he or they shall not have any power to give any other person any directions under this section inconsistent with the provisions of any Act or instrument determining the functions of the authority carrying on the undertaking except in so far as may be specifically provided by the notified order.

18C. Contracts in bad faith, etc., may be cancelled or varied.—Without prejudice to the provisions contained in section 18B, the person or body of persons authorised under section 18A to take over the management of an industrial undertaking may, with the previous approval of the Central Government, make an application to any court having jurisdiction in this behalf for the purpose of cancelling or varying any contract or agreement entered into, at any time before the issue of the notified order under section 18A, between the industrial undertaking and any other person and the court may, if satisfied after due inquiry that such contract or agreement had been entered into in bad faith and is detrimental to the interests of the industrial undertaking, make an order cancelling or varying (either unconditionally or subject to such conditions as it may think fit to impose) that contract or agreement, and the contract or agreement shall have effect accordingly.

18D. No right to compensation for termination of office or contract.—Notwithstanding anything contained in any law for the time being in force, no person who ceases to hold any office by reason of the provisions contained in clause (a) of section 18B, or whose contract of management is terminated by reason of the provisions contained in clause (b) of that section, shall be entitled to any compensation for the loss of office or for the premature termination of his contract of management:

Provided that nothing contained in this section shall affect the right of any such person to recover from the industrial undertaking moneys recoverable otherwise than by way of such compensation.

18E. Application of Act VII of 1913.—(1) Where the management of an industrial undertaking, being a company as defined in the Indian Companies Act, 1913 (VII of 1913), is taken over by the Central Government, then, notwithstanding anything contained in the said Act or in the memorandum or articles of association of such undertaking,—

(a) it shall not be lawful for the shareholders of such undertaking or any other person to nominate or appoint any person to be a director of the undertaking;

(b) no resolution passed at any meeting of the shareholders of such undertaking shall be given effect to unless approved by the Central Government;

(c) no proceeding for the winding up of such undertaking or for the appointment of a receiver in respect thereof shall lie in any court except with the consent of the Central Government.

(2) Subject to the provisions contained in sub-section (1), and to the other provisions contained in this Act and subject to such other exceptions, restrictions and limitations, if any, as the Central Government may, by notification in the Official Gazette, specify in this behalf, the Indian Companies Act, 1913 (VII of 1913), shall continue to apply to such undertaking in the same manner as it applied thereto before the issue of the notified order under section 18A.

18F. Power of Central Government to cancel notified order under section 18A.—If at any time it appears to the Central Government on the application of the owner of the industrial undertaking or otherwise that the purpose of the order made under section 18A has been fulfilled or that for any other reason it is not necessary that the order should remain in force, the Central Government may, by notified order, cancel such order and on the cancellation of any such order the management or the control, as the case may be, of the industrial undertaking shall vest in the owner of the undertaking.

CHAPTER III-B

CONTROL OF SUPPLY, DISTRIBUTION, PRICE, ETC., OF CERTAIN ARTICLES

18G. Power to control supply, distribution, price, etc., of certain articles.—(1) The Central Government, so far as it appears to it to be necessary or expedient for securing the equitable distribution and availability at fair prices of any article or class of articles relatable to any scheduled industry, may, notwithstanding anything contained in any other provision of this Act, by notified order, provide for regulating the supply and distribution thereof and trade and commerce therein.

(2) Without prejudice to the generality of the powers conferred by sub-section (1), a notified order made thereunder may provide—

(a) for controlling the prices at which any such article or class thereof may be bought or sold;

(b) for regulating by licences, permits or otherwise the distribution, transport, disposal, acquisition, possession, use or consumption of any such article or class thereof;

(c) for prohibiting the withholding from sale of any such article or class thereof ordinarily kept for sale;

(d) for requiring any person holding stock of any such article or class thereof to sell the whole or a specified part of the stock ****to such persons or class of persons and in such circumstances as may be specified in the order;

(e) for regulating or prohibiting any class of commercial or financial transactions relating to such article or class thereof which in the opinion of the authority making the order are, or if unregulated are likely to be, detrimental to public interest;

(f) for requiring persons engaged in the distribution and trade and commerce in any such article or class thereof to mark the articles exposed or intended for sale with the sale price or to exhibit at some easily accessible place on the premises the price-lists of articles held for sale and also to similarly exhibit on the first day of every month, or at such other time as may be prescribed, a statement of the total quantities of any such articles in stock;

(g) for collecting any information or statistics with a view to regulating or prohibiting any of the aforesaid matters; and

(h) for any incidental or supplementary matters, including, in particular, the grant or issue of licences, permits or other documents and the charging of fees therefor.

(3) Where, in pursuance of any order made with reference to clause (d) of sub-section (2), any person sells the whole or a specified part of the stock of any articles or class thereof, there shall be paid to him the price therefor—

(a) where the price can be fixed by agreement, the price so agreed upon;

(b) where no such agreement can be reached the price calculated with reference to the controlled price, if any, fixed under this section;

(c) where neither clause (a) nor clause (b) applies, the price calculated at the market rate prevailing in the locality at the date of sale.

(4) No order made in exercise of any power conferred by this section shall be called in question in any court.

(5) Where an order purports to have been made and signed by an authority in exercise of any power conferred by this section, a court shall, within the meaning of the Indian Evidence Act, 1872 (I of 1872), presume that such order was so made by that authority.

Explanation.—In this section, the expression 'article or class of articles' relatable to any scheduled industry includes any article or class of articles imported into India which is of the same nature or description as the article or class of articles manufactured or produced in the scheduled industry".

14. Substitution of new section for section 23 in Act LXV of 1951.—For section 23 of the principal Act, the following section shall be substituted, namely:—

"23. Decision of Central Government final respecting certain matters.—If, for the purposes of this Act, any question arises as to whether—

(a) there has been a substantial expansion of an industrial undertaking, or

(b) an industrial undertaking is producing or manufacturing any new article,

the decision of the Central Government thereon shall be final."

15. Amendment of section 24, Act LXV of 1951.—For sub-section (1) of section 24 of the principal Act, the following sub-section shall be substituted, namely:—

"(1) If any person contravenes or attempts to contravene or abets the contravention of—

(i) the provisions of sub-section (1) of section 10 or of sub-section (1) of section 11 or of section 11A or of sub-section (1) of section 18, or

(ii) any direction issued under section 16 or sub-section (3) of section 18B, or

(iii) any order made under section 18G, or

(iv) any rule the contravention of which is made punishable under this section,

he shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both, and, in the case of a continuing contravention, with an additional fine which may extend to five hundred rupees for every day during which such contravention continues after conviction for the first such contravention.".

16. Insertion of new section 24A in Act LXV of 1951.—After section 24 of the principal Act, the following section shall be inserted, namely:—

"24A. Penalty for false statements.—If any person,—

(a) when required by this Act or by any order under this Act to make any statement or furnish any information, makes any statement or furnishes any information which is false in any material particular and which he knows or has reasonable cause to believe to be false or does not believe to be true; or

(b) makes any such statement as aforesaid in any book, account, record, declaration, return or other document which he is required by any order made under this Act to maintain or furnish;

he shall be punishable with imprisonment which may extend to three months, or with fine which may extend to two thousand rupees, or with both.".

17. Substitution of new sections for sections 25, 26, 27, 28 and 29 in Act LXV of 1951.—For sections 25, 26, 27, 28 and 29 of the principal Act, the following sections shall be substituted, namely:—

"25. Delegation of powers.—(1) The Central Government may, by notified order, direct that any power exercisable by it under this Act (other than the power given to it by sections 16 and 18A) shall, in relation to such matters and subject to such conditions, if any, as may be specified in the direction, be exercisable also by such officer or authority (including in the said expressions any Development Council, State Government or officer or authority subordinate to the Central Government), as may be specified in the direction.

(2) Any power exercisable by a State Government by virtue of a direction under sub-section (1) may, unless otherwise provided in such direction, be exercised also by such officer or authority subordinate to that State Government as it may, by notified order, specify in this behalf.

26. Power to issue directions.—The Central Government may give directions to any State Government as to the carrying into execution in the State of any of the provisions of this Act or of any order or direction made thereunder.

27. Cognizance of offences.—No court shall take cognizance of any offence punishable under this Act except on a report in writing of the facts constituting such offence made by a person who is a public servant as defined in section 21 of the Indian Penal Code (Act LXV of 1860).

28. Burden of proof in certain cases.—Where any person is prosecuted for contravening any order made under section 18G which prohibits him from doing an act or being in possession of a thing without lawful authority or without a permit, licence or other document, the burden of proving that he has such authority, permit, licence or other document shall be on him.

29. Jurisdiction of courts.—(1) Subject to the provisions of sub-section (2), no court inferior to that of a presidency magistrate or a magistrate of the first class shall try any offence punishable under this Act.

(2) Any magistrate or bench of magistrates empowered, for the time being, to try in a summary way the offences specified in sub-section (1) of section 260 of the Code of Criminal Procedure, 1898 (V of 1898), may, on application in this behalf being made by the prosecution, try, in accordance with the provisions contained in sections 262 to 265 of the said Code any offence which consists of a contravention of an order made under section 18G.

29A. Special provision regarding fines.—Notwithstanding anything contained in section 82 of the Code of Criminal Procedure, 1898 (V of 1898), it shall be lawful for any magistrate of the first class and for any presidency magistrate to pass a sentence of fine exceeding one thousand rupees on any person convicted of any offence under this Act.

29B. Power to exempt in special cases.—If the Central Government is of opinion, having regard to the smallness of the number of workers employed or to the amount invested in any industrial undertaking or to the desirability of encouraging small undertakings generally or to the stage of development of any scheduled

industry, that it would not be in public interest to apply all or any of the provisions of this Act thereto, it may, by notification in the Official Gazette, exempt, subject to such conditions as it may think fit to impose, any industrial undertaking or class of industrial undertakings or any scheduled industry or class of scheduled industries as it may specify in the notification from the operation of all or any of the provisions of this Act or of any rule or order made thereunder.

29C. Protection of action taken under the Act.—(1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act or any rule or order made thereunder.

(2) No suit or other legal proceeding shall lie against the Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

18. Amendment of section 30, Act LXV of 1951.—In section 30 of the principal Act, in sub-section (2), in clause (i) for the words and figures 'section 11 or section 13', the words, letter and figures 'section 11, section 11A or section 13' shall be substituted.

19. Amendment of First Schedule, Act LXV of 1951.—In the First Schedule to the principal Act,—

(a) (i) for item (5), the following items shall be substituted, namely:—

"(5) Mathematical, surveying, and drawing * * * Instruments;

(5A) Scientific instruments.";

(ii) for item (10), the following item shall be substituted, namely:—

"(10) textiles—

(a) made wholly or in part of cotton, including cotton yarn, hosiery and rope,

(b) made wholly or in part of jute, including jute yarn, twine and rope,

(c) made of wool, including woollen yarn, hosiery, carpets and druggets,

(d) made of silk,

(e) made of artificial silk, including artificial silk yarn,

(f) made wholly or in part of staple fibre.";

(iii) for item (11), the following items shall be substituted, namely:—

"(11) Automobiles.

(11A) Tractors.";

(iv) for item (18), the following items shall be substituted, namely:—

"(18) Electric lamps.

(18A) Electric fans.";

(v) for items (16) and (17), the following items shall be substituted, namely:—

"(16) Machinery used in industries including boilers and steam generating equipment.

(16A) Ball, roller and tapered bearings.

(17) Locomotives.

(17A) Rolling stock.";

(vi) to item (20), the following words shall be added at the end, namely:—

"and semi-manufactures thereof";

(vii) in item (21), for the words 'and paper board', the words 'paper board and straw board' shall be substituted;

(viii) for items (25), (26) and (27), the following items shall be substituted, namely:—

"(25) Leather, leather goods and pickers.

(26) Glue and gelatine";

(27) Vanaspati;

(27A) Vegetable oils.";

(ix) in item (30), the words 'and parts thereof' shall be omitted;

(x) for items (35) and (36), the following items shall be substituted, namely:—

"(35) Sewing machines.

(35A) Knitting machines.

(36) Small tools.

(36A) Hand tools.";

(xi) after item (37), the following items shall be inserted, namely:—

"(38) Dye-stuffs.

(39) Soap.

(40) Other toilet requisites.

(41) Plywood.

(42) Ferro-manganese.";

(b) the following "Explanations" shall be added at the end, namely:—

"Explanation 1.—In item (4), 'Iron and steel' shall include any manufactured product of iron and steel.

Explanation 2.—In items (1), (7), (9), (11), (11A), (18), (19A), (17), (17A), (20), (80), (82), (83), (84), (35), (35A), (36) and (36A), the articles specified therein shall include each of their component parts and accessories also."

M. N. KAUL,
Secretary.